

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUN 10 2010 ★

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BYRONT LOPEZ,

BROOKLYN OFFICE

COMPLAINT

Plaintiff,

Jury Trial Demanded

-against-

THE CITY OF NEW YORK, POLICE OFFICER JASON
TEJADA (BADGE NO. 6997), POLICE OFFICER JOHN
DOE 1-3.

10 2659

**WEINSTEIN, J.
MANN, M.J.**

Defendants.
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PRELIMINARY STATEMENT

1. This is a civil rights action, alleging that the City of New York and several New York City Police Officers violated plaintiff's rights under 42 U.S.C. § 1983, the Fourth and Six Amendments to the United States Constitution. Specifically, plaintiff alleges that, on April 24, 2010, defendants falsely arrested him, used excessive force on him, strip-searched him, and made false allegations about him to the Kings County District Attorney's Office. Plaintiff seeks compensatory and punitive damages, attorney's fees and costs, and such other and further relief as the court deems just and proper.

JURISDICTION & VENUE

2. This action is brought pursuant to 42 U.S.C. § 1983 and the Fourth and Sixth Amendments to the United States Constitution. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. § 1391 (b) and (c).

PARTIES

4. Plaintiff is a resident of the State of New York who lives in Brooklyn.

5. The City of New York is a municipal corporation organized under the laws of the State of New York.

6. Police Officer Jason Tejada and John Doe 1-3 are members of the New York City Police Department who were acting under color of state law and in their capacities as City law enforcement officers at all relevant times. Tejada and the Does are liable for directly participating in the unlawful acts described herein and for failing to intervene to protect plaintiff from unconstitutional conduct. The defendants are sued in their individual and official capacities.

STATEMENT OF FACTS

7. On April 24, 2010, at approximately 3:30 a.m. in the vicinity of 285 Division Street in Brooklyn, NY, plaintiff was walking towards a friend's house when he was approached by two officers. The officers questioned plaintiff. When plaintiff objected, the officers, without cause, threw plaintiff to the ground and placed him in handcuffs.

8. Plaintiff was then placed in a car where two other officers were sitting.

9. Plaintiff was then taken to the Broadway Junction Precinct where he was held for about fifteen hours.

10. Plaintiff's designated "arresting officer" was Police Officer Jason Tejada.

11. While plaintiff was incarcerated in the precinct, Tejada, pursuant to a conspiracy with other officers involved in plaintiff's arrest, prepared police reports which falsely stated that plaintiff had committed Disorderly Conduct.

12. The next evening, plaintiff was transported to Brooklyn Central Booking. While plaintiff was confined in Brooklyn Central Booking, Tejada, pursuant to a conspiracy with other officers involved in plaintiff's arrest, misrepresented to the Kings County District Attorney's Office that plaintiff had committed the crime of Disorderly Conduct.

13. On April 26, 2010 at approximately 10:00 p.m. plaintiff was arraigned and received an ACD.

14. Plaintiff suffered damage as a result of defendants' actions. Plaintiff was deprived of his liberty, suffered emotional distress, mental anguish, fear, anxiety, embarrassment, and humiliation. Further, plaintiff experienced pain, numbness, and bruising from the excessively tight handcuffs.

**FIRST CLAIM
(FALSE ARREST)**

15. Plaintiff repeats the foregoing allegations.

16. No officer observed plaintiff commit a crime on April 24, 2010.

17. At no time on April 24, 2010 did plaintiff commit a crime.

18. Accordingly, defendants violated the Fourth Amendments and state law because they arrested plaintiff without probable cause.

**SECOND CLAIM
(UNREASONABLE FORCE)**

19. Plaintiff repeats the foregoing allegation.

20. In the course of arresting plaintiff, defendants struck plaintiff about the head and face causing plaintiff pain and discomfort. While at the precinct, plaintiff was struck about the kidney and groin.

21. This use of force was objectively unreasonable.

22. Accordingly, defendants violated the Fourth Amendment because they used unreasonable force on plaintiff.

**THIRD CLAIM
(FABRICATION OF EVIDENCE)**

23. Plaintiff repeats the foregoing allegations.

24. Defendants, pursuant to a conspiracy, falsely stated to the Kings County District Attorney's Office that plaintiff had committed a crime.

25. Accordingly, defendants violated the Sixth Amendment for fabricating evidence against him and denying him a fair trial.

**FOURTH CLAIM
(MONELL CLAIM)**

26. Plaintiff repeats the foregoing allegations.


27. The City of New York, through a policy, practice and custom, directly cause the constitutional violations suffered by plaintiff.

28. Upon information and belief, the City of New York, at all relevant times, was aware that the defendants are unfit officers who have previously committed the acts alleged herein and/or have a propensity for unconstitutional conduct.

WHEREFORE, plaintiff demands a jury trial and the following relief jointly and severally against the defendants:

- a. Compensatory damages in an amount to be determined by a jury;
- b. Punitive damages in an amount to be determined by a jury;
- c. Costs, interest and attorney's fees;
- d. Such other and further relief as the Court may deem just and proper.

DATED: June 8, 2010
New York, New York



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